



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

EDP/FTB/WG  
F. #2018R02250

*271 Cadman Plaza East  
Brooklyn, New York 11201*

January 30, 2023

By ECF

The Honorable Nicholas G. Garaufis  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: United States v. Douglass Mackey  
Criminal Docket No. 21-80 (NGG)

Dear Judge Garaufis:

The government respectfully submits this letter in response to the Court's January 23, 2023 Order directing the parties to submit objections, if any, to empaneling a vaccinated jury.

The government takes no position as to whether jurors should be asked about their vaccination status, but notes that, during the pandemic, many jury trials in this District have been conducted and proceeded to verdict where jurors have not been asked about their vaccination status. The government is also aware of criminal trials in this District in which only vaccinated jurors were empaneled. Pursuant to Fed. R. Crim. P. 24(a), questioning prospective jurors about such matters is within the district court's discretion. Should the Court determine to do so and exclude unvaccinated potential jurors, however, the

